

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

SCOTT A. CASH,	)	4:06CV3073
	)	
Petitioner,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
ROBERT HOUSTON, Director, and	)	
FRED BRITTEN, Warden,	)	
	)	
Respondents.	)	

This matter is before the court on Petitioner's Motion for Leave to Appeal In Forma Pauperis ([filing no. 58](#)) and Motion to Extend ([filing no. 60](#)). In his Motion to Extend, Petitioner seeks an additional 45 days in which to file a brief in support of his pending Motion for Certificate of Appealability. ([Id.](#)) For good cause shown, the Motion to Extend is granted. Petitioner shall have until **September 29, 2008** in which to file a brief in support of his Motion for Certificate of Appealability. In the event that Petitioner fails to file a brief in support by that date, the court will rule on the Motion for Certificate of Appealability without further notice.

Also pending is Petitioner's Motion for Leave to Appeal In Forma Pauperis. ([Filing No. 58.](#)) Petitioner is a prisoner and has previously been granted leave to proceed in forma pauperis ("IFP") in this matter. ([Filing No. 5.](#)) [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#) states:

(a) Leave to Proceed in Forma Pauperis ....

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed –

certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that, because Petitioner was previously given leave to proceed IFP, he may now “proceed on appeal in forma pauperis without further authorization” in accordance with Federal Rule of Appellate Procedure 24.

IT IS THEREFORE ORDERED that:

1. Petitioner’s Motion for Leave to Appeal In Forma Pauperis ([filing no. 58](#)) is granted.
2. Petitioner’s Motion to Extend ([filing no. 60](#)) is granted.
3. Petitioner shall have until **September 29, 2008** in which to file a brief in support of his Motion for Certificate of Appealability. In the event that Petitioner fails to file a brief in support by that date, the court will rule on the Motion for Certificate of Appealability without further notice.
4. The Clerk of the court is directed to set a pro se case management deadline with the following text: **September 29, 2008: Brief in support of Motion for Certificate of Appealability due.**

August 18, 2008.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge